

AMENDED IN ASSEMBLY APRIL 12, 2004

AMENDED IN ASSEMBLY APRIL 1, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2445

Introduced by Assembly Member Canciamilla

February 19, 2004

An act to amend Sections ~~4731~~, 4800, 4802, and 4805 of, *and to amend and renumber Section 4716 of*, the Probate Code, relating to advance health care directives.

LEGISLATIVE COUNSEL'S DIGEST

AB 2445, as amended, Canciamilla. Advance health care directives: registry.

Existing law provides that an adult with capacity may give individual health care ~~instruction~~ *instructions* and defines advance health care directives in this regard. Existing law requires a supervising health care provider who knows of the existence of an advance health care directive to record it in a patient's health care record, and requires a health care provider to comply with the instructions of an advance health care directive, with specified exceptions. Existing law directs the Secretary of State to establish ~~the Advance Health Care Directive Registry~~ *an advance health care directive registry* to receive and release specified information from a person who has executed ~~an~~ *a written* advance health care directive. Existing law permits the Secretary of State to charge a fee to cover the actual costs of establishing and maintaining the registry.

This bill would require the Secretary of State, ~~as part of the duties associated with the Advance Health Care Directive Registry, to receive and release a person's advance health care directive and other information, and would require that this information be transmitted to the registry system of another jurisdiction upon a specified request. The bill would require the Secretary of State to issue an Advance Health Care Directive Registry identification card to people~~ *a registrant* who ~~have~~ *has* deposited advance health care directive information with the registry, and would require the Secretary of State to charge a fee to cover the actual costs of establishing and maintaining the registry. The bill would remove a prohibition on honoring an ~~advanced~~ *advance* health care directive unless it receives a copy from a registrant, and ~~the bill would further require a supervising health care provider, certain hospitals to check the registry for an advance health care directive, as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1.—Section 4731 of the Probate Code is amended to~~
2 ~~read:~~
3 ~~4731.—(a) (1) A supervising health care provider who knows~~
4 ~~of the existence of an advance health care directive, a revocation~~
5 ~~of an advance health care directive, or a designation or~~
6 ~~disqualification of a surrogate, shall promptly record its existence~~
7 ~~in the patient's health care record and, if it is in writing, shall~~
8 ~~request a copy. If a copy is furnished, the supervising health care~~
9 ~~provider shall arrange for its maintenance in the patient's health~~
10 ~~care record.~~
11 ~~(2) If a supervising health care provider is informed or~~
12 ~~discovers that a patient has registered an advance health care~~
13 ~~directive, or information regarding an advance health care~~
14 ~~directive, with the Advance Health Care Directive Registry,~~
15 ~~pursuant to Section 4800, the provider shall arrange for the~~
16 ~~directive or other information to be obtained from the registry as~~
17 ~~soon as possible. If a patient is unable to inform the supervising~~
18 ~~health care provider of the existence of an advance health care~~
19 ~~directive, the supervising health care provider shall check for a~~
20 ~~identification card issued by the Advance Health Care Directive~~

~~Registry indicating that an advance health care directive, or information regarding an advance health care directive, has been deposited with the registry.~~

~~(b) A supervising health care provider who knows of a revocation of a power of attorney for health care or a disqualification of a surrogate shall make a reasonable effort to notify the agent or surrogate of the revocation or disqualification.~~

SECTION 1. Section 4716 of the Probate Code, as added by Chapter 329 of the Statutes of 2001, is amended and renumbered to read:

~~4716.~~

4717. (a) Notwithstanding any other provision of law, within 24 hours of the arrival in the emergency department of a general acute care hospital of a patient who is unconscious or otherwise incapable of communication, the hospital shall make reasonable efforts to contact the patient's agent, surrogate, or a family member or other person the hospital reasonably believes has the authority to make health care decisions on behalf of the patient. A hospital shall be deemed to have made reasonable efforts, and to have discharged its duty under this section, if it does ~~both~~ *all* of the following:

(1) Examines the personal effects, if any, accompanying the patient and any medical records regarding the patient in its possession, and reviews any verbal or written report made by emergency medical technicians or the police, to identify the name of any agent, surrogate, or a family member or other person the hospital reasonably believes has the authority to make health care decisions on behalf of the patient.

(2) Contacts or attempts to contact any agent, surrogate, or a family member or other person the hospital reasonably believes has the authority to make health care decisions on behalf of the patient, as identified in paragraph (1).

(3) *Contacts the Secretary of State to inquire whether the patient has registered an advance health care directive with the Advance Health Care Directive Registry.*

(b) The hospital shall document in the patient's medical record all efforts made to contact any agent, surrogate, or a family member or other person the hospital reasonably believes has the authority to make health care decisions on behalf of the patient.

1 (c) Application of this section shall be suspended during any
2 period in which the hospital implements its disaster and mass
3 casualty program, or its fire and internal disaster program.

4 SEC. 2. Section 4800 of the Probate Code is amended to read:

5 4800. (a) The Secretary of State shall establish a registry
6 system through which a person who has executed a written
7 advance health care directive may register in a central information
8 center, information regarding the advance directive, making that
9 information available upon request to any health care provider, the
10 public guardian, or other person authorized by the registrant.

11 (b) Information that shall be received and released is limited to
12 the registrant's name, social security or driver's license or other
13 individual identifying number established by law, if any, address,
14 date and place of birth, the registrant's advance health care
15 directive, an intended place of deposit or safekeeping of a written
16 advance health care directive, and the name and telephone number
17 of the agent and any alternative agent.

18 (c) When the Secretary of State receives information from a
19 registrant, the secretary shall issue the registrant an Advance
20 Health Care Directive Registry identification card indicating that
21 an advance health care directive, or information regarding an
22 advance health care directive, has been deposited with the registry.
23 Costs associated with issuance of the card shall be offset by the fee
24 charged by the Secretary of State to receive and register
25 information at the registry.

26 (d) The Secretary of State, at the request of the registrant or his
27 or her *legal* representative, shall transmit the information received
28 regarding the written advance health care directive to the registry
29 system of another jurisdiction as identified by the registrant, or his
30 or her *legal* representative.

31 (e) The Secretary of State shall charge a fee to each registrant
32 in an amount such that, when all fees charged to registrants are
33 aggregated, the aggregated fees do not exceed the actual cost of
34 establishing and maintaining the registry.

35 SEC. 3. Section 4802 of the Probate Code is amended to read:
36 4802. The Secretary of State shall establish procedures to
37 advise each registrant of the following:

38 (a) Each registrant must notify the registry upon revocation of
39 the advance directive.

1 (b) Each registrant must reregister upon execution of a
2 subsequent advance directive.

3 SEC. 4. Section 4805 of the Probate Code is amended to read:

4 4805. Nothing in this part shall be construed to affect the duty
5 of a health care provider to provide information to a patient
6 regarding advance health care directives pursuant to any provision
7 of federal law.

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